THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.14548 OF 2007

ORAL ORDER:

This writ petition is filed seeking a declaration that the action of the 1st respondent-Bank in conducting auction of the property belonging to the petitioner under sale notice dated 28.2.2007 as arbitrary and illegal.

A perusal of the impugned notice dated 28.2.2007 itself shows that the 1st respondent having initiated the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the Act") sought to sell the secured assets which is one of the measures provided under Section 13(4) of the Act to recover the secured debt.

Though the petitioner vehemently contended that there was no demand notice under Section 13(2) of the Act and that even the possession notice under Section 13(4) of the Act was not in accordance with the provisions of the Act, having regard to the alternative remedy available under Section 17 of the Act, I am not inclined to entertain the writ petition on that ground. Under Section 17 of the Act, any person aggrieved by any of the measures referred to in sub-section (4) of Section 13 of the Act is entitled to make an application to the Debts Recovery Tribunal having jurisdiction in the matter; in which event the Debts Recovery Tribunal after conducting due enquiry will pass appropriate orders in accordance with law.

Since, apparently, the mater involves several disputed questions of fact, which cannot be enquired into and decided by this Court in a writ proceeding, the petitioner cannot invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India without exhausting the efficacious alternative remedy under the Statute.

Accordingly, granting leave and liberty to the petitioner to work out the alternative remedy, the writ petition is disposed of. No costs.

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(G. ROHINI, J.)

9th July, 2007.
Kgr

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.14548 OF 2007

9th July, 2007.

Between:

Y. Ganesh. ..Petitioner.

And

Syndicate Bank,
Regional Office,
Somajiguda, Hyderabad, represented by its
Authorized Officer and another. .. Respondents.